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**APPEALS BOARD  
UTAH LABOR COMMISSION**

**ROMAN DIAZ-CABRERA,**

**Petitioner,**

**vs.**

**SWIFT AND COMPANY and ZURICH  
AMERICAN INSURANCE CO.,**

**Respondents.**

**ORDER DENYING REQUEST  
FOR RECONSIDERATION**

**Case No. 03-1248**

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Roman Diaz-Cabrera asks the Appeals Board of the Utah Labor Commission to reconsider its prior decision denying Mr. Diaz-Cabrera's claim for benefits under the Utah Occupational Disease Act, Title 34A, Chapter 3, Utah Code Annotated.

The Appeals Board exercises jurisdiction over this matter pursuant to Utah Code Annotated §63G-4-302.

**BACKGROUND**

Mr. Diaz-Cabrera claims occupational disease benefits from Swift & Company and its insurance carrier, Zurich American Insurance Co., (referred to jointly hereafter as "Swift") for carpal tunnel syndrome allegedly caused by Mr. Diaz-Cabrera's employment at Swift. After an evidentiary hearing, Judge Marlowe referred Mr. Diaz-Cabrera's claim to an impartial panel of medical experts. The panel concluded that Mr. Diaz-Cabrera's work did not cause his carpal tunnel syndrome. Judge Marlowe accepted the panel's opinion and denied Mr. Diaz-Cabrera's claim for benefits.

Mr. Diaz-Cabrera then requested Appeals Board review of Judge Marlowe's decision. Specifically, Mr. Diaz-Cabrera asked the Appeals Board to reject the medical panel's opinion and, instead, conclude that his medical problems were caused by his work. However, in a decision issued March 26, 2008, the Appeals Board found the panel's opinion persuasive and concurred with Judge Marlowe's denial of Mr. Diaz-Cabrera's claim.

Mr. Diaz-Cabrera has now submitted a letter stating his dissatisfaction with the medical evaluations he has received and asserting that he was discharged from his work at Swift after the company learned he would require surgery. Although it is not clear whether the letter was intended as a "request for reconsideration" under § 63G-4-302 of the Utah Administrative Procedures Act, the Appeals Board will treat the letter as such a request.

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**DISCUSSION**

As a preliminary matter, the Appeals Board notes Mr. Diaz-Cabrera's assertion that Swift discharged him after it learned that he would require surgery. While it is conceivable that Swift's alleged conduct is actionable in federal or state courts, the alleged conduct does not fall within the jurisdiction of this Appeals Board nor does it affect Mr. Diaz-Cabrera's claim for occupational disease benefits.

The central question in this proceeding is whether Mr. Diaz-Cabrera's work at Swift is the medical cause of his carpal tunnel syndrome. In light of the disagreement among the parties' medical experts, the Commission appointed its own medical panel to consider the matter. After reviewing all the medical evidence, this impartial panel concluded that Mr. Diaz-Cabrera's carpal tunnel syndrome is not work related. The Appeals Board continues to find the medical panel's opinion persuasive. The Appeals Board therefore reaffirms its previous decision denying Mr. Diaz-Cabrera's claim.

**ORDER**

The Appeals Board reaffirms its previous decision in this matter. It is so ordered.

Dated this 27<sup>th</sup> day of May, 2008.

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Colleen Colton, Chair

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Patricia S. Drawe

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Joseph E. Hatch

**NOTICE OF APPEAL RIGHTS**

Any party may appeal this Order to the Utah Court of Appeals by filing a Petition For Review with that Court within 30 days of the date of this Order.